CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

Minutes

March 15, 2006

The Capital Projects and Bond Oversight Committee met on Wednesday, March 15, 2006, at 9:00 AM, in Room 113 of the Capitol Annex. Senator Elizabeth Tori, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Elizabeth Tori, Co-Chair; Representative Mike Denham, Co-Chair; Senators Jerry Rhoads and Dan Seum; and Representatives Robert Damron, Paul Marcotte, and Jim Wayne.

Guests testifying before the Committee: Sandy Williams, Kentucky Infrastructure Authority; Nora Marshall, Office of Financial Management; Lori Flanery and Walter Clare, Kentucky Housing Corporation; John Hicks, Governor’s Office for Policy and Management; Jim Abbott and Steven Biven, Finance and Administration Cabinet; and Bob Tarvin, School Facilities Construction Commission.

LRC Staff: Mary Lynn Collins, Nancy Osborne, Kristi Culpepper, and Shawn Bowen.

Representative Marcotte made a motion to approve the minutes of the February 15, 2006 meeting. The motion was seconded and approved by unanimous voice vote.

Senator Tori called on Ms. Mary Lynn Collins, Committee Staff Administrator, to review correspondence and information items included in members' folders. Ms. Collins said the folders included correspondence submitted by the University of Kentucky and the University of Louisville regarding the purchase of unbudgeted scientific research equipment, and the Kentucky Lottery Corporation's monthly financial report for January 2006.

Ms. Collins said five information items were also included in members' folders: a staff update on various capital projects; proposed legislation relating to the jurisdiction of the Capital Projects and Bond Oversight Committee; an update on capital provisions in the House budget; a recent report by Standard & Poor's regarding unfunded pension liabilities; and the updated monthly and weekly debt issuance calendar.

Next, Ms. Sandy Williams, Financial Analyst, Kentucky Infrastructure Authority (KIA), reported six new KIA loan requests. The first loan Ms. Williams reported was a

Fund A loan request for the Hopkinsville Water Environment Authority in Christian County. The Water Authority is requesting an increase to its existing Fund A loan to continue its sewer extension program. The increase is $1,133,384, and the total loan is $2,469,924.

Ms. Williams then reported a $2,326,078 Fund A loan for the Ledbetter Water District in Livingston County. The proceeds of the loan will be used to pay off the balance of a $3,300,000 Kentucky Association of Counties Leasing Trust loan.

Ms. Williams said the Oldham County Sewer District is requesting two loans, a Fund A loan in the amount of $5,430,248, and a Fund C loan in the amount of $16,667. The proceeds from both loans will be used to purchase the assets and assume the liabilities of the City of Crestwood utility system.

Next, Ms. Williams reported that the City of Pikeville has acquired the Mossy Bottom Sewer System and is seeking to assume the System's two Fund A loans. The loan amounts are $314,404 and $924,251.

Ms. Williams said the City of Elkton in Todd County is requesting a Fund B loan in the amount of $808,000. The proceeds will be used to refinance outstanding revenue bonds.

Ms. Williams then reported that the City of Georgetown has acquired the City of Stamping Ground's water distribution and sewer collection system, and wishes to assume Stamping Ground's $68,333 Fund C loan.

Representative Damron noted that several of the KIA loans presented have a 0% interest rate. He asked what criteria KIA used to determine which water districts get a 0% interest rate. Ms. Williams said the 0% interest rate for the Ledbetter Water District's Fund A loan was based on a consultation with the Public Service Commission, the Area Development District, KIA staff, and the Livingston County Fiscal Court. The Sanitation District was financially strapped, and an agreement was reached to help this District work out its financial issues.

In response to another question from Representative Damron, Ms. Williams said the KIA Board is responsible for establishing policies regarding the distribution of money and the approval of loans.

Representative Damron asked why the City of Elkton in Todd County received a 0% interest rate for its Fund B loan, and why a coal grant was allocated. Nancy Osborne, Committee staff, clarified the staff analysis and said there was no coal grant associated with the Elkton project. She said the Fund B program is totally state funded, and the Fund A loan program, which is a federal revolving loan program, does allow a 0% loan. Ms.

Osborne said the Ledbetter loan is the first Fund A loan with 0% interest, and the Elkton loan is only the second Fund B loan with a 0% interest rate. [The first Fund B loan with a 0% interest rate was to Union County as a bridge loan for an anticipated coal grant. Funds were never drawn on that loan.]

Senator Seum asked if KIA loan holders have the option to refinance their loans to a 0% interest rate. Ms. Williams said it is the KIA Board's policy not to allow KIA to refinance its own loans.

Senator Rhoads made a motion to approve the six KIA loan requests. The motion was seconded by Representative Denham and passed by unanimous roll call vote.

Ms. Williams said members' folders included a report from KIA regarding line-item Coal/Tobacco Development Grants approved in the 2004-06 budget. Senator Tori said no further action was required on these projects.

The next report was provided by Ms. Nora Marshall, Financial Analyst for the Office of Financial Management (OFM). Ms. Marshall said OFM submitted one new bond issue report to the Committee this month: Kentucky Housing Corporation (KHC) Single Family Housing Revenue Bonds, 2006 Series H, I & J or additional series as may be designated in an amount not to exceed $115 million. Proceeds from this bond issue will be used to provide mortgage financing for first-time low and moderate income Kentucky homebuyers.

Senator Tori noted the Finance and Administration Cabinet has proposed an amendment to 200 KAR 15:010, the administrative regulation governing the Kentucky Private Activity Bond Allocation Committee. She asked about the status of this amendment.

Ms. Marshall introduced Ms. Lori Flanery, Chief Counsel, KHC, and Mr. Walter Clare, Financial Management Senior Director, KHC, to discuss the amendment to the regulation. Ms. Flanery said the Finance and Administration Cabinet, on behalf of KHC, has promulgated a change to 200 KAR 15:010. The amendment would initially allocate 80% of the Commonwealth's private activity bond cap (tax-exempt) to state issuers, as opposed to the current 60%, and would place all local housing projects seeking private activity bond cap under KHC's jurisdiction. She said over the last four years, local bond issuers have not been applying for the entire amount of bond cap set aside for local issuers and any unallocated amount is distributed to state issuers. By the end of the year, KHC and the Kentucky Student Loan Corporation, as the state issuers, typically end up receiving 80% of the cap. KHC wants to change the regulation to mirror this. Additionally, housing bond issues currently going before the Private Activity Bond Allocation Committee would now flow through KHC and be treated like conduit bond issues.

Ms. Flanery said based on comments regarding the regulation, a change was recently made to the proposed regulation to increase from 10% to 25% the maximum amount of the local issuer pool that could be used for one project. Ms. Flanery said the Administrative Regulations Review Committee will discuss this matter at its April 11, 2006 meeting.

Senator Tori asked what the advantages and disadvantages are in increasing the initial allocation to state issuers from 60% to 80%. Ms. Flanery said the change will reflect what has been happening for the last four years: local issuers have applied for approximately 20% of the cap and the state receives the remaining 80%. She said the local issuers have other resources, and have not been coming into the pool because it is not that attractive a resource for them. While the state issuers (KHC and the Kentucky Higher Education Student Loan Corporation) end up receiving the remaining 80% of the cap, the state cap could be more efficiently used if the 80% was allocated initially. Ms. Flanery explained that they did not want to change the statute because the economy could change, and a regulation would be easier to amend if the need arose.

Senator Seum said he is sponsoring Senate Bill 28, which would prohibit an entity from issuing certain private activity bonds for projects outside the jurisdictional boundaries of the issuing entity. Senate Bill 28 would also amend KRS 103.2101 to increase the period required for notification of a public hearing on private activity bond projects from 30 days to 90 days. He asked if the proposed amendment to the regulation will affect the bill. Ms. Flanery said the amendment would help because KHC currently has a conduit process which requires local officials in the affected area to put in writing whether or not they support a proposed housing project.

Representative Damron said amending this regulation gives the state more control at the expense of local control. He said it may work fine if the state is going to be cognizant of what local issuers want to do, but local issuers may be left in a lurch. He said he realized part of the local issuer pool is not used, but it is not lost since it then is allocated to state issuers. He asked why they want to take the cap away from local communities that may want to use it, and what the benefit would be for local issuers. Ms. Flanery said from the housing perspective, if local issuers are going to get private activity bond cap, they have to come to the state anyway. By working through KHC, it assures review by a state entity that specializes in affordable housing. She said when they proposed this regulation and provided for public discussion, the only concern was for the 10% limit on the amount of cap that could be allocated for a single project. Since they increased the limit to 25%, they have not heard of any other concerns.

Representative Damron asked why the regulation is being amended. He said it appears that this change would restrict the ability of local communities to have at least 40% of the cap. Ms. Flanery said, based on prior history, the change to the amendment will not hurt local communities. She said if this change to the regulation is made, it will help KHC in its planning process to determine how many bonds they can issue and how they can take that program and leverage other programs where they are helping a vulnerable population. She said if there becomes a sudden local demand on those resources, the regulation can be amended again.

Mr. Clare said changing the regulation would allow for better planning by KHC. More specifically, KHC will know the actual amount of private activity bond cap they have for the year, they will know the maximum amount of tax-exempt debt they can issue, as well as the minimal amount of taxable debt they will need to issue, and ultimately, they will end up with a lower mortgage rate to the homebuyers.

Representative Damron said if they use all the debt cap earlier in the year, and another community applies for that cap and it is no longer available, this change could be negative to the economic development activity of a local community. He commented that some communities may not know this change is being made. Mr. Clare said the only thing this regulation does is provide a larger share of the cap for state issuers, and directs the housing transactions, whether they be multi-family or single family, to come to KHC first.

Representative Wayne said last year he, KHC staff, and committee staff worked on a provision that would require local legislators to be notified ahead of time when KHC plans to act as a conduit issuer for a multi-family housing project. He asked if the proposed regulation change affects those guidelines. Ms. Flanery said the amendment to the regulation would not affect the conduit guidelines. She said they hoped to use the guidelines as a model for other housing applicants if this regulation is changed.

Representative Wayne asked if the League of Cities is aware of this regulatory change. Ms. Flanery said neither KHC nor the Finance Cabinet have heard from the League of Cities regarding the change, and she was not sure if they were aware of it. Representative Wayne said affected individuals need to be consulted in a more active way. Ms. Flanery said they would be happy to contact the executive director of the League of Cities.

Representative Wayne said he always promotes a team effort on these kinds of projects because housing projects have a lot of different people involved with various points of view, and local governments have a major stake in what is being done.

Representative Denham asked if this debt increase has anything to do with the funding and the bonding of Recovery Kentucky centers. Mr. Clare said there is no debt on those centers; it is a mix of low income housing tax credits and federal dollars.

Representative Wayne said his understanding was that Recovery Kentucky took half of the money in the Affordable Housing Trust Fund, $1.5 million, thus reducing the amount for all the other non-profits to tap into that trust fund. Mr. Clare said he was right.

Representative Wayne asked if Recovery Kentucky bypassed the normal application process other non-profits have to use. Ms. Flanery said none of the money has been allocated, there is an application process and a certain amount of money from the Affordable Housing Trust Fund has been set aside by the Board for Recovery Kentucky for those applicants. Representative Wayne said this concerned him because the Affordable Housing Trust Fund is a trust fund that since 1992 has been operated with a great deal of fairness and integrity, and to set aside half of that trust fund for a specific project, no matter how worthy a project, does harm to the other non-profits.

In response to a question from Senator Seum, Ms. Flanery responded that for any bond issue that comes before KHC, they would make sure that the top elected official in that area signs off on it. Senator Seum said it should be approved by the elected body of the area.

After the discussion concerning the proposed change to the regulation, the Committee further discussed the proposed KHC bond issue. Representative Wayne made a motion to approve the KHC bond issue. The motion was seconded by Representative Denham and passed by roll call vote. Five members voted affirmatively, and two, Senator Seum and Representative Damron, passed.

Ms. Fugate then presented four new school bond issues with School Facilities Construction Commission (SFCC) debt service participation: Gallatin County, Kenton County, Magoffin County, and Monticello Independent (Wayne Co.).

Representative Denham asked if any of these schools were category five schools. Dr. Bob Tarvin, SFCC Executive Director, responded that the Gallatin County School District is a category five school, and the project entails replacement of an upper elementary middle school.

Representative Denham made a motion to approve the four school bond issues. The motion was seconded by Representative Wayne and passed by roll call vote. Five members voted affirmatively. Representative Damron abstained from the vote, citing a potential conflict of interest.

Ms. Collins said there was one locally–funded school bond issue submitted to the Committee for review this month for Anderson County. She said all disclosure information has been filed, and no further action on the bond issue was required.

Senator Tori asked Mr. John Hicks, Deputy State Budget Director, Governor's Office for Policy and Management, and Mr. Jim Abbott, Commissioner for Facilities and Support Services, Finance and Administration Cabinet, to present the Finance Cabinet’s monthly report to the Committee. Mr. Hicks reported an allocation of $88,400 from the Emergency Repair, Maintenance and Replacement Fund to repair the roof of the McDowell Center (Education Cabinet, Office for the Blind) in Louisville, Kentucky. This project was reviewed by the Committee in June 2005 and estimated to cost $561,000. Mr. Hicks said after a more thorough review, they discovered two canopies associated with the roof repair project that also needed to be repaired. The Education Cabinet has also added $25,000 from its maintenance pool and $25,000 from available federal funds to the project. The total scope of the project is now $699,400.

Senator Tori asked if the Finance Cabinet had any success in its efforts for reimbursement from Steelox, the manufacturer of the McDowell Center roof. Mr. Abbott said the subcontractor has gone out of business, but the manufacturer has not. He said they have not recouped any funds from this project, but they are pursuing that matter.

Representative Damron asked about the KET transmitter problem in Western Kentucky. Mr. Abbott said KET has made an emergency request to complete this repair, and it has been approved by the Secretary of the Finance and Administration Cabinet. Mr. Hicks said they are still examining the financing of this project, but it is likely to be an item on the Committee's April agenda.

Representative Wayne asked about the status of the Laurel County Juvenile Detention Center situation. [This building, only three years old, was closed in June 2005 due to settlement problems. In order to determine the cause of the settlement problems, this project received an allocation of $70,000 from the Emergency Repair, Maintenance and Replacement Account to cover the cost for an independent forensic engineer to evaluate the cause of the problems.] Mr. Abbott said the Cabinet is working with the Department of Juvenile Justice on an emergency lease to temporarily replace the state-owned facility. He said staff has viewed some of the seven properties that were offered for lease. He said they will examine each property to determine if any are suitable for temporary housing for juveniles. He said at this point, there has been no resolution concerning the state-owned facility that is offline.

Representative Wayne asked if the detention center can be repaired. Mr. Abbott said this issue is under review, and until the review is completed, he would be hesitant to say whether they will be able to repair it or will need to replace it.

In response to another question from Representative Wayne, Mr. Abbott said the Department of Juvenile Justice will communicate its plan with the local community before selecting a temporary lease site.

Senator Tori said no action is required for Emergency projects.

Senator Tori then called on Mr. Steve Biven, Director, Division of Real Properties, to present two lease modification reports. Mr. Biven first reported a lease modification for the Cabinet for Health and Family Services in Leslie County. The Cabinet plans to consolidate three CHFS leases and complete renovations to accommodate the increased staff. The cost of the modifications is $7,050 and will be amortized over the remaining lease term. [The consolidation of leases will save the state $13,860 annually.]

The second modification Mr. Biven reported was for the Governor's Office for Local Development (GOLD) in Franklin County. GOLD plans to modify its leased office space to create a secure reception area and increase the level of physical security for staff. The cost of the modification is $1,680, and will be amortized over the remaining lease term. No action was required on these projects since each of the modifications were under $50,000.

With there being no further business, a motion was made to adjourn the meeting. The meeting adjourned at 10:10 a.m.